



Commonwealth of Kentucky

MASTER AGREEMENT

IMPORTANT

Show Doc ID number on all packages, invoices and correspondence.

| | | | |
|---|--|--|--|
| Doc Description: Sodium Chloride North American D2 | | | |
| Doc ID No: MA 605 1100001125 4 | | Proc Folder: 2147601 | |
| Procurement Type: Standard Goods | | | |
| Effective Date: 2011-06-17 | | Expiration Date: 2014-04-30 | |
| | | Not To Exceed Amount | |
| Administered By: DARRELL BURKS | | Cited Authority: FAP111-35-00-G | |
| Telephone: 502-564-4556 | | Issued By: Jennifer Houchin | |

Reason For Modification: Renew contract for an additional twelve months as per the terms and conditions of the contract. All parties are in agreement. Renewal contract period will be from 05/01/13 thru 04/30/14. There are no optional renewal periods remaining on contract.

| | | | |
|----------------------------|------------------------|--|--|
| V E N D O R | NORTH AMERICAN SALT CO | | |
| | 9900 W 109TH ST | | |
| | STE 600 | | |
| | OVERLAND PARK KS 66210 | | |
| | US | | |

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|---|---------------|----------|------------|------------|--------------|-------------|
| 1 | Caldwell Co Maintenance Sodium Chloride Rock Salt | 0 | 0.00 | TON | 63.58000 | 0.00 | 0.00 |

Extended Description

Caldwell County Maintenance Storage Facility 760 Old Fredonia Road (0.5 miles West of the Junction of US 62 and KY 91 on KY 2617 in Princeton) Princeton, Kentucky 42445 Phone: (270) 365-6362 Vendor shall provide sodium chloride (rock salt) Type 1, Grade 1 meeting the Kentucky Transportation Cabinet, Department of Highways Standard Specifications for Road and Bridge Construction, Edition 2008, Section 825.
Vendor Rep: Monica Lloyd
Vendor PH: 800-323-1641
Vendor Email: lloydm@compassminerals.com

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|--|---------------|----------|------------|------------|--------------|-------------|
| 2 | Christian Co Maintenance Sodium Chloride Rock Salt | 0 | 0.00 | TON | 63.51000 | 0.00 | 0.00 |

Extended Description

Christian County Maintenance Storage Facility 200 Lovella Lane, Box 185 US 41, 0.1 mile North of the Intersection of KY 380 in Hopkinsville Hopkinsville, Kentucky 42240 Phone: 270-885-3388 Vendor shall provide sodium chloride (rock salt) Type 1, Grade 1 meeting the Kentucky Transportation Cabinet, Department of Highways Standard Specifications for Road and Bridge Construction, Edition 2008, Section 825.

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|--|---------------|----------|------------|------------|--------------|-------------|
| 3 | Daviess Co Maintenance Sodium Chloride Rock Salt | 0 | 0.00 | TON | 62.35000 | 0.00 | 0.00 |

Extended Description

Daviess County Maintenance Storage Facility 2973 Fairview Drive KY 3143 in Owensboro Owensboro, Kentucky 42301 Phone: 270-683-6066 Vendor shall provide sodium chloride (rock salt) Type 1, Grade 1 meeting the Kentucky Transportation Cabinet, Department of Highways Standard Specifications for Road and Bridge Construction, Edition 2008,

Extended Description

Section 825.

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|--|---------------|----------|------------|------------|--------------|-------------|
| 4 | Hancock Co Maintenance Sodium Chloride Rock Salt | 0 | 0.00 | TON | 60.95000 | 0.00 | 0.00 |

Extended Description

Hancock County Maintenance Storage Facility 1430 State Route 1389 0.4 mile Southwest of Hawesville on KY 1389, 0.5 Mile South of US 60 Hawesville, Kentucky 42348 Phone: 270-927-8300 Vendor shall provide sodium chloride (rock salt) Type 1, Grade 1 meeting the Kentucky Transportation Cabinet, Department of Highways Standard Specifications for Road and Bridge Construction, Edition 2008, Section 825.

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|--|---------------|----------|------------|------------|--------------|-------------|
| 5 | Henderson Co Maintenance Sodium Chloride Rock Salt | 0 | 0.00 | TON | 63.59000 | 0.00 | 0.00 |

Extended Description

Henderson County Maintenance Storage Facility 2280 Adams Lane 0.2 mile East of US 41 on KY 2099 - Adams Lane Henderson, Kentucky 42420 Phone: 270-826-4145 Vendor shall provide sodium chloride (rock salt) Type 1, Grade 1 meeting the Kentucky Transportation Cabinet, Department of Highways Standard Specifications for Road and Bridge Construction, Edition 2008, Section 825.

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|--|---------------|----------|------------|------------|--------------|-------------|
| 6 | Hopkins Co Maintenance Sodium Chloride Rock Salt | 0 | 0.00 | TON | 64.56000 | 0.00 | 0.00 |

Extended Description

Hopkins County Maintenance Storage Facility 1020 Pride Avenue KY 1581 Madisonville, Kentucky 42431 Phone: 270-821-6365 Vendor shall provide sodium chloride (rock salt) Type 1, Grade 1 meeting the Kentucky Transportation Cabinet, Department of Highways Standard Specifications for Road and Bridge Construction, Edition 2008, Section 825.

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|--|---------------|----------|------------|------------|--------------|-------------|
| 7 | Hopkins Co Salt Storage Dome Sodium Chloride Rock Salt | 0 | 0.00 | TON | 63.40000 | 0.00 | 0.00 |

Extended Description

Vendor shall provide sodium chloride (rock salt) Type 1, Grade 1 meeting the Kentucky Transportation Cabinet, Department of Highways Standard Specifications for Road and Bridge Construction, Edition 2008, Section 825.

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|---|---------------|----------|------------|------------|--------------|-------------|
| 8 | McLean Co Maintenance Sodium Chloride Rock Salt | 0 | 0.00 | TON | 63.59000 | 0.00 | 0.00 |

Extended Description

McLean County Maintenance Storage Facility P. O. Box 293 0.2 mile East of KY 81 on KY 136 in Calhoun Calhoun, Kentucky 42327 Phone: 270-273-3995 Vendor shall provide sodium chloride (rock salt) Type 1, Grade 1 meeting the Kentucky Transportation Cabinet, Department of Highways Standard Specifications for Road and Bridge Construction, Edition 2008, Section 825.

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|---|---------------|----------|------------|------------|--------------|-------------|
| 9 | Muhlenberg Co Maintenance Sodium Chloride Rock Salt | 0 | 0.00 | TON | 62.86000 | 0.00 | 0.00 |

Extended Description

Muhlenberg County Maintenance Storage Facility 121 Gaslight Drive, P. O. Box 307 KY 2106, Behind the Ball Park in Central

Extended Description

CityCentral City, Kentucky 42330Phone: 270-754-2350Vendor shall provide sodium chloride (rock salt) Type 1, Grade 1 meeting the Kentucky Transportation Cabinet, Department of Highways Standard Specifications for Road and Bridge Construction, Edition 2008, Section 825.

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|---|---------------|----------|------------|------------|--------------|-------------|
| 10 | Ohio Co Maintenance Sodium Chloride Rock Salt | 0 | 0.00 | TON | 64.76000 | 0.00 | 0.00 |

Extended Description

Ohio County Maintenance Storage Facility850 Highway 1543, P. O. Box 291 1.0 mile South of Hartford on KY 1543Hartford, Kentucky 42347Phone: 270-298-3781Vendor shall provide sodium chloride (rock salt) Type 1, Grade 1 meeting the Kentucky Transportation Cabinet, Department of Highways Standard Specifications for Road and Bridge Construction, Edition 2008, Section 825.

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|--|---------------|----------|------------|------------|--------------|-------------|
| 11 | Union Co Maintenance Sodium Chloride Rock Salt | 0 | 0.00 | TON | 63.33000 | 0.00 | 0.00 |

Extended Description

Union County Maintenance Storage Facility317 East Waverly Street 0.1 mile South of US 60 on KY 2091 in MorganfieldMorganfield, Kentucky 42347Phone: 270-389-1953Vendor shall provide sodium chloride (rock salt) Type 1, Grade 1 meeting the Kentucky Transportation Cabinet, Department of Highways Standard Specifications for Road and Bridge Construction, Edition 2008, Section 825.

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|--|---------------|----------|------------|------------|--------------|-------------|
| 12 | Webster Co Maintenance Sodium Chloride Rock Salt | 0 | 0.00 | TON | 63.33000 | 0.00 | 0.00 |

Extended Description

Webster County Maintenance Storage Facility806 US Highway 41A South, P. O. Box 277 US 41A at the South City Limits of DixonDixon, Kentucky 42409Phone: 270-639-9162Vendor shall provide sodium chloride (rock salt) Type 1, Grade 1 meeting the Kentucky Transportation Cabinet, Department of Highways Standard Specifications for Road and Bridge Construction, Edition 2008, Section 825.

| | |
|---------------------|------|
| Total Order Amount: | 0.00 |
|---------------------|------|

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Section 1—Specifications

1.00—Specifications of Commodity and/or Service Requirements

1.01 SCOPE OF CONTRACT - Sodium Chloride (Rock Salt)

Establish a Master Agreement for the Purchase of Sodium Chloride (Rock Salt) by the Kentucky Transportation Cabinet for each of its storage locations in each county within Highway District 2 for use in the Department of Highways Snow and Ice Control Program.

1.02 MATERIAL REQUIREMENTS

The Sodium Chloride Type 1, Grade 1, will meet the Kentucky Transportation Cabinet, Department of Highways Standard Specifications for Road and Bridge Construction, Edition of 2008, Section 825.

A link to the Standard Specifications can be found at:

<http://transportation.ky.gov/construction/spec/spec08.htm>

Deliver the sodium chloride in a free-flowing, usable condition, free from lumps and foreign material. Product that does not meet specified conditions at the time of the delivery will not be accepted and will be removed by the Vendor at no cost to the Department.

Provide Sodium Chloride with a moisture content that will not exceed two percent (2.0%). Treat the Sodium Chloride with an anti-caking agent to prevent caking or freezing when in storage.

1.03 SAMPLING, TESTING, AND COMPLIANCE

Sampling as delivered will not be required, however, the Department reserves the right to take random samples and test any material when delivered to the designated delivery point. The Department also reserves the right, at its discretion, to sample and test any material at the terminal site or from the barge site prior to being loaded onto trucks.

When the Department chooses to take random samples and the samples fail to meet the specified conditions; the Department may require the removal of the material by the Vendor at no cost to the Department.

When weather conditions dictate that material which does not meet specified conditions must be used, or when otherwise it is in the best interest of the Cabinet to use the material, it may be accepted at a reduction in the contract bid price.

Such reduction will be between ten percent (10.0%) and fifteen percent (15.0%) depending on the degree of noncompliance as determined by the Division of Materials and the Division of Maintenance in consultation with the respective District personnel.

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In the event adjustments for excess moisture becomes necessary, a ten percent (10.0%) reduction will apply for sodium chloride analyzing two and one-tenth percent (2.1%) moisture to and including two and one-half percent (2.50%) moisture. A fifteen percent (15.0%) reduction will apply for material containing two and six-tenths percent (2.60%) moisture to and including three percent (3.0%) moisture. Sodium chloride containing moisture in excess of three percent (3.0%) moisture will not be accepted.

The reduction will apply to the quantity of material represented by the failing sample. The Vendor will process any adjustments due under the above conditions by issuing a credit memorandum or a revised invoice showing the adjustment to the affected purchasing entity and to the attention of the bookkeeper.

1.04 METHOD OF MEASUREMENT

Weighing will be over scales with a certification for the current year and will be by personnel authorized by the Vendor. Scale weigh personnel are responsible for the following:

- (1) Compliance to contract quantity.
- (2) Entry of accurate weights on weight slips.
- (3) Adherence to road weight limits as prescribed by law.

The names of the weigh personnel will be filed with each respective Highway District Office. Personnel from the Department of Highways may be substituted for Vendor weigh personnel when necessary. The Department reserves the right to spot-check truck loads or truck-trailer loads for weight conformance to the weight shown on the weight slip or invoice (including tare weight if it is deemed advisable). Upon direction by authorized personnel, the truck will proceed to the nearest scales for such weight determination.

The Vendor will abide by the weight limits as provided by Kentucky law.

Kentucky Transportation Cabinet Salt Contact

District Two – Madisonville
1840 North Main Street
Madisonville KY 42431-0600
Attention: Brad Houck
Phone: 270-824-7080

Section 2—Terms and Conditions of the Master Agreement

2.00—Scope of the Contract

The KYTC Division of Purchases issues this Master Agreement for: Sodium Chloride (Rock Salt)
Highway District 2

2.01—Contract Components and Order of Precedence

The Commonwealth's acceptance of the offer indicated by the issuance of an Award by the KYTC

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Division of Purchases shall create a valid Master Agreement consisting of the following:

1. The written Master Agreement between the Parties;
2. Any Addenda to the Solicitation;
3. Any provisions of the Solicitation and all attachments thereto;
4. The Bidder's response to the Solicitation, and
5. The Kentucky Revised Statutes KRS 45A.

In the event of an inconsistency between provisions of the solicitation, the inconsistency shall be resolved by giving precedence in the following order: (a) the Specifications; (b) other provisions of the Solicitation, whether incorporated by reference or otherwise; (c) Contract or Master Agreement Terms and Conditions; (d) FAP 110-10-00 – General Conditions and Instructions for Solicitations and Contracts.

2.02—Initial Contract Period

The Master Agreement will be effective upon award and expire 4/30/2012.

2.03—Optional Renewal Period

This Master Agreement may be extended at the completion of the initial contract period for two (2) additional one-year periods. This extension must have the written approval of the vendor and the KYTC Division of Purchases. The Commonwealth of Kentucky reserves the right to renegotiate any terms and/or conditions as may be necessary to meet requirements for the extended period. The vendor will be advised of any proposed revisions prior to the renewal periods. In the event proposed revisions cannot be agreed upon, either party shall have the right to withdraw without prejudice from either exercising the option or continuing the contract in an extended period.

2.04—Divisions/Agencies to Be Served

This contract shall be for use by the following Divisions/Agencies of the Kentucky Transportation Cabinet:

KYTC Division of Maintenance
Highway District 2

No shipments or services are authorized until an official Delivery Order has been fully processed by an authorized agency.

2.05—Quantity Basis of Contract

This Master Agreement has no guarantee of any specific quantity, and the State is obligated only to buy that quantity which is needed by its agencies.

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2.06—Exception to Required Use of Contract

The establishment of this Master Agreement is not intended to preclude the use of similar products when requested by the agency. The Commonwealth of Kentucky reserves the right to acquire large requirements through other competitive processes.

2.07—Basis of Price Revisions

PRICE ADJUSTMENTS: Unless otherwise specified, the prices established by the Master Agreement shall be firm for the contract period subject to the following:

A. Price Increases: A price increase will not be allowed during the first six (6) months of the contract. Only one price increase will be allowed during the contract period. The price increase must be based on industry wide price changes. The contract holder must request in writing a price increase at least thirty (30) days prior to the effective date, and shall provide firm proof that the price increase(s) is justified. The KYTC Division of Purchases may request additional information or justification. If the price increase is denied, the contract holder may withdraw from the contract without prejudice upon written notice and approval by the KYTC Division of Purchases. Notice of withdrawal must be provided a minimum of forty-five (45) days prior to the effective date.

B. Price Decreases: The contract price shall be reduced to reflect any industry wide price decreases. The contract holder is required to furnish the KYTC Division of Purchases with notice of any price decreases as soon as such decreases are available.

C. Extended Contract Periods: If the contract provides for an optional renewal period, a price adjustment may be granted at the time the contract is renewed, subject to price increase justification as required "A. Price Increases". One (1) additional price increase may be granted during the extended contract period. This price increase will not be allowed during the first six (6) months of the extended contract period and will be subject to the conditions in "A" above.

2.08—Addition or Deletion of Items or Services

The KYTC Division of Purchases reserves the right to add new and similar items, with the consent of the vendor, to the contract. If an addition is agreeable to both parties, the KYTC Division of Purchases will issue a Modification. Until such time as the vendor receives a Modification, the vendor shall not accept Delivery Orders from any agency referencing such items or services.

2.09—Changes and Modifications to the Contract

During the period of the contract, a modification shall not be permitted in any of its conditions and specifications, unless the contractor receives electronic or written approval from the KYTC Division of Purchases. If the contractor finds at any time that existing conditions make modification in requirements necessary, the contractor shall report the matter promptly to the KYTC Division of Purchases for consideration and decision. All contract modifications shall be subject to the provisions of 200 KAR 5:311.

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2.10—Equipment

All equipment must be new and current model(s). The Commonwealth recognizes the rapid advancement of technology. If the vendor can provide new equipment of advanced technology after the award of the contract, the Commonwealth and the bidder may choose by mutual agreement to install such equipment. The price of the new technology equipment cannot exceed the cost of the award contract.

2.11—Basis of Shipment

All shipments shall be F.O.B. Destination to the receiving agency. The vendor shall be fully responsible for all shipments and freight charges involved to the ordering agency. The responsibility for filing freight claims lies with the vendor.

2.12—Notices

Unless otherwise instructed, all notices, consents, and other communications required and/or permitted by the Master Agreement shall be in writing.

After the Award, all programmatic communications are to be made to the Agency Contact Person listed below with a copy to the Division of Purchases.

Brad Houck
Highway District 2
Kentucky Transportation Cabinet
Phone: 270-824-7080
E-mail: Brad.Houck@ky.gov

With copy to:

Jennifer Houchin, CPPB
Division of Purchases
Kentucky Transportation Cabinet
Phone: 502-564-4630
E-mail: Jennifer.Houchin@ky.gov

After the Award, all communications of a contractual or legal nature are to be made to the KYTC Division of Purchases.

2.13—Deliveries

SPECIAL NOTICE TO ALL PROSPECTIVE BIDDERS: TRANSPORTATION DELIVERY ORDERS MAY BE ISSUED IMMEDIATELY UPON THE AWARD OF CONTRACTS.

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Begin the delivery of the guaranteed quantities of sodium chloride (rock salt) in bulk, by truck, to the facility location indicated on each Delivery Order. Delivery must be initiated within six (6) days after the receipt of the Delivery Order. Complete the delivery of the guaranteed quantities of the Sodium Chloride per the designated time periods.

The Chief District Engineer, the Director of the Division of Maintenance, or their authorized agent, may issue Delivery Orders by telephone, telegraph, fax, or mail. Delivery Orders placed in a manner other than hard copy will be confirmed on hard copy.

The purchase of any quantities of sodium chloride over and above the guaranteed quantities will follow the same procedures for purchase and delivery as that of the guaranteed quantities.

The minimum order for each delivery will be twenty-two (22) tons. Include the Delivery Order Number on all delivery tickets.

Notify each Department location of the delivery times a minimum of twenty-four (24) hours prior to delivery. Failure to give such notice may result in the Vendors' truck having to wait for the availability of personnel for unloading.

Provide a signed certification to cover each Delivery Order issued, stating compliance of the material with all of the requirements quoted within these Terms and Conditions. Indicate the point of delivery and the actual quantity delivered on the certification. Submit three (3) copies of the certification to the designated receiving agent and one (1) copy to the Department of Highways, Division of Materials, 1227 Wilkinson Boulevard, Frankfort, Kentucky, 40601. Show the Transportation Delivery Order Number on the certification.

If it is found that proper quality control of the product has not been exercised; the privilege of routine acceptance by certification will be revoked.

In the event any delivery, including vehicle and load, exceeds said weight limits or the weight limit provided for by a special permit issued by the Cabinet, the Cabinet may refuse to accept delivery of that quantity which is in excess of the legal limit.

In the event of extreme winter storm conditions, the Department of Highways reserves the right to purchase additional quantities of sodium chloride, over and above the guaranteed quantities, at the contract bid price to meet the demands of the removal of snow and ice from highway pavements. Delivery Orders for additional Sodium Chloride (Rock Salt) are subject to the aforementioned Terms and Conditions and will be completed within the Guaranteed Delivery Period.

The bidder guarantees complete delivery of all orders within 6 calendar days after award of a Delivery Order.

In the event the Vendor fails to complete the delivery of the guaranteed purchase quantities within the guaranteed delivery period, the Vendor agrees to and further authorizes the Kentucky Transportation Cabinet to deduct a 1% per calendar day penalty from the total invoice for each day beyond the guaranteed period.

The Vendor will not be held responsible for failure to deliver if the failure is due to acts beyond their

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control, such as a war, flood, or tornado. The Vendor will immediately submit written proof to the Director of the Division of Maintenance and the Director of the Division of Purchases that the failure to deliver was beyond their control.

2013 – 2014 Winter Season Guaranteed Salt Tonnage Purchases

| District | Delivery by Nov 1 | December | Deliveries for Jan –Mar. |
|----------|-------------------|----------|--------------------------|
| 2 | | | 4500 |

During abnormal winter storm conditions when inventories of Sodium Chloride at various District locations may be low, it may become necessary to prioritize deliveries being made by the Vendor. The Director of the Division of Maintenance will assume the responsibility of directing the Vendor to specific destination points for the delivery of Sodium Chloride. In the event this situation occurs, the Vendor will be responsible for conveying this directive to their terminal manager and to the trucking company hauling the Sodium Chloride for them.

Should the Vendor fail to make deliveries in accordance with these Terms and Conditions, the Cabinet may exercise the option of canceling the Master Agreement and purchase the quantity of material not furnished by the Vendor from another source of supply. All costs and expenses in excess of the stipulated contract amounts will be charged to the defaulting Vendor and may be deducted from any money due the Vendor at the time of the default.

Upon the receipt of the award of a Master Agreement, the successful Vendor will provide the Department of Highways with a listing of all terminals and shipping point locations from which Sodium Chloride will be delivered. Failure to provide this list within thirty (30) days of the award of a Master Agreement may result in the cancellation of the Master Agreement.

The Department will not accept shipping point locations as approved sites that do not have paved pads for salt storage and that do not have the capabilities for salt stored in a stockpile on the pad to be covered. Failure to provide shipping point locations that meet with the approval of the Department may result in the cancellation of the Master Agreement.

2.14—Inspection

All supplies, equipment and services shall be subject to inspection or tests by the Commonwealth prior to acceptance. In the event supplies, equipment or services are defective in material or workmanship or otherwise not in conformity with specified requirements, the Commonwealth shall have the right to reject the items or services or require acceptable correction at the vendor's expense.

2.15—Invoices

Invoices, if required, shall be prepared and transmitted to the agency receiving the goods or services. One copy shall be marked "original" unless otherwise specified. Each invoice shall contain at least the following information:

Contract and order number

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Item numbers
Description of supplies or services
Sizes
Quantities
Unit prices
Extended totals

2.16—Payments

The Vendor shall be paid upon submission to the receiving agent of proper invoices at the prices stipulated for material delivered and accepted. Include the Delivery Order number on all invoices. Unless otherwise specified, payment will not be made for partial deliveries. The “Bill To” information will appear on each Delivery Order.

A bill shall be paid within 30 working days of either the receipt of correct invoice, or receipt of goods or services in satisfactory condition. A penalty payment of one percent (1%) per month shall be added to the amount due the vendor for each full or partial month that the payment exceeds 30 working days. As an incentive for earlier payment, bidders for state contracts are encouraged to offer discounts for payments made in less than the prescribed 30 days.

2.17—Post Contract Agreements

The Master Agreement shall represent the entire agreement between the parties. Prior negotiations, representations, or agreements, either written or oral, between the parties hereto relating to the subject matter hereof shall be of no effect upon this contract. The Commonwealth shall not be required to enter into nor sign further agreements, leases, company orders or other documents to complete or initiate the terms of the contract. Any such documents so obtained will be non-binding on the State and be cause for breach of contract.

2.18—Service Performance

All services performed under contract shall be in accordance with the terms and conditions of the contract. It will be the agency's responsibility to ensure that such services rendered are performed and are acceptable.

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

Deviations of services performed will not be made without the written approval of the KYTC Division of Purchases. Problems that arise under any aspect of performance should first be resolved between the vendor and the agency. If such problems and/or disagreements cannot be resolved they should be referred to the KYTC Division of Purchases for mediation.

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2.19—Assignment

The vendor shall not assign this Master Agreement in whole or in part to another vendor at any time during the initial or optional renewal terms of the contract, without the consent, guidance and approval of the Commonwealth. Any assignment hereunder entered into, subsequent to the execution of the contract with the prime vendor, must be annotated and approved by the Commonwealth. Any purported assignment without this consent shall be null and void.

2.20—Termination of Contracts

A contract may be terminated for default by the vendor, for the convenience of the Commonwealth, or for lack of appropriation in accordance with 200 KAR 5:312.

2.21— Endorsements

The Contractor shall not refer to the Award of Contract in commercial advertising in such a manner as to state or imply that the firm or its services are endorsed or preferred by the Commonwealth of Kentucky.

2.22 - Secretary of State Filing

"Foreign entity" means a corporation, not-for-profit corporation, cooperative, association, business or statutory trust, partnership, limited partnership, or limited liability company not:

- (a) Organized pursuant to the laws of the Commonwealth of Kentucky; or
- (b) As to its internal affairs, governed by the laws of the Commonwealth of Kentucky;

A foreign entity that is Incorporated, a Limited Liability Company, or a Partnership shall be properly registered with the Kentucky Secretary of State and obtain a Certificate of Authority to conduct business in the Commonwealth. Bidders are encouraged to obtain the required registration and Certificate during the Solicitation process. Failure to provide a Certificate of Authority within fourteen (14) calendar days of the bid closing date noted on the Solicitation shall result in a bid being rejected as non responsive. Vendors currently registered shall provide a copy of the Certificate of Authority with submission of bid.

A link to Business Filings is provided below.

<http://www.sos.ky.gov/business/default.htm>

2.23—EEO ACT

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The Contractor shall comply with all terms and conditions of the Act, if applicable.

- 1) Failure to comply with the Act may result in non-award, withdrawal of award, cessation of contract payments, etc.
- 2) Vendors/Contractors must submit the following documents in accordance with the requirements of the

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solicitation—EEO-1: Employer Information Report, Affidavit of Intent to Comply and Subcontractor Report or a copy of the Kentucky EEO Approval Letter issued by the Finance and Administration Cabinet, Office of EEO and Contract Compliance.

3) Vendors/Contractors may obtain copies of the required EEO documents from the Finance and Administration Cabinet's e-Procurement Web page under Standard Attachments and General Terms at the following address: <http://eprocurement.ky.gov/attachments.htm>.

4) Vendors/Contractors must advise each subcontractor/subvendor—with a subcontract of more than \$500,000—of the subcontractor's obligation to comply with the KY EEO Act. Further, Vendors/Contractors are responsible for compiling EEO documentation from their subcontractors/subvendors and submitting the documentation to the Finance and Administration Cabinet, Office of EEO and Contract Compliance. (Note: contracts below the second tier are exempt from EEO reporting.)

5) Failure to complete, sign and submit all required documents will delay the award process as incomplete submissions will not be processed. Further, alternate versions of the required documents will not be accepted or processed.

6) Pursuant to KRS 45.610 (2), the Finance and Administration Cabinet, Office of EEO and Contract Compliance reserves the right to request additional information and/or documentation and to conduct on-site monitoring reviews of project sites and/or business facilities at any point for the duration of any contract which exceeds \$500,000 to ascertain compliance with the Act and such rules, regulations and orders issued pursuant thereto.

7) All questions regarding EEO forms or contract compliance issues must be directed to the Finance and Administration Cabinet, Office of EEO and Contract Compliance via e-mail: Finance.ContractCompliance@ky.gov or via telephone: (502) 564-2874.

2.24—Prevailing Wage

If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

2.25—Kentucky Sales and Use Taxes

Sales of tangible personal property or services to the State of Kentucky and its agencies are not subject to state sales or use taxes.

2.26—Extension Period

This contract may be extended at the termination of all contract renewal periods for additional time not to exceed **90 days**. This extension must be accompanied by the written approval of the vendor and the

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Division of Purchases

2.27—Extending Master Agreement To Other Agencies

The Division of Purchases reserves the right, with the consent of the vendor, to offer this master agreement to other state agencies or political subdivisions who may have need for the product (s).

2.28 - Access to Records

The contractor, as defined in KRS 45A.030(9) agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review may be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884